

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

(1) GENE MUSICK, Individually & on
Behalf of All Others Similarly Situated,

and

(2) ROBERT ABELL, Individually & d/b/a ABELL FARMS, et al.

Plaintiffs,

v.

MONSANTO CO.,

Defendant.

No. 2-05-CV-450 (TJW)

Jury Trial Requested

AGREED MOTION TO DISMISS

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, GENE MUSICK, Individually & on Behalf of All Others Similarly Situated, and ROBERT ABELL, Individually & d/b/a ABELL FARMS, et al., and file this, their Agreed Motion to Dismiss, and, in support thereof, would respectfully show unto the Court as follows:

I.

Plaintiffs have reached an agreement to dismiss this case and proceed in arbitration. The Honorable Sam Sparks has retained jurisdiction in a related proceeding between the parties in the U.S. District Court in Austin to enforce the arbitrator's decree. Costs of court are to be adjudged against the party incurring same.

WHEREFORE, Plaintiffs pray that this Honorable Court will enter a final Order dismissing Plaintiffs' cause without prejudice.

Respectfully submitted,

/s/

James A. Holmes (attorney in charge)
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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I hereby certify that I have discussed the foregoing Agreed Motion to Dismiss with Mr. James Shuey, attorney for Defendant, Monsanto Co., and he has indicated that Monsanto Co. does not oppose this Motion.

_____/s/_____
James A. Holmes

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to all counsel of record via the electronic case filing system for the United States District Court for the Eastern District of Texas on this, the 26th of July 2006.

_____/s/_____
James A. Holmes